

REMARKS

In response to the Patent and Trademark Office letter, of October 20, 2004, paragraph [0001] has been corrected. The application Serial No. was previously incorrect. The Examiner is thanked for pointing out this error. He is also thanked for the allowance of Claim 1-20.

The Examiner rejected Claims 20 and 21 as being anticipated by Labofish. He also rejected Claims 21 and 22 under Section 103 as being obvious with respect to the teaching of Link.

Labofish teaches a measuring gauge comprised of two blades A,A which are pivoted between two plates E and F. Each of the plates has step-like serrations B. When the blades are pivoted against each other to the position in FIGURE A, the steps face away from each other and are used for internal measurements. When the blades are pivoted the other way to the position in FIGURE 2, the steps act for external measurement. This is a 4-piece device (plus pivot pins) which is used as a direct measurement gauge. It is not used for setting calipers or the like.

Link teaches a step gauge for setting up woodworking tools. In FIGURE 1, he doubles the number of measurement steps by placing them on opposite sides of the gauge plate. On the left side of FIGURE 1, 11 is the reference surface to any of the steps on that side. Reference surface 12 serves the right-hand measurement steps. In FIGURE 4, the edges 31 and 32 are the reference surfaces. There is no left-to-right measurement between

steps in the teachings of FIGURES 1 and 4. Similarly, in FIGURE 5, measurements are made from the steps to one of the reference surfaces 23 or 24. In FIGURE 6, measurement is made from a selected one of the steps to corresponding reference surface 44 or 45. Since the Labofish structure has moving parts, it is inherently less accurate than a unitary structure.

With respect to the rejection of Claims 21 and 22 as being anticipated by Labofish, Claims 21 and 22 have been amended to recite that the claimed device is a caliper setting gauge. It is not a measurement device, but is the device by which a caliper is set and then the caliper is carried to the workpiece. This is different than the Labofish who uses his gauge to make direct measurements. In addition the claim has been amended to call for a unitary gauge body. As described above, the Labofish device is a 4-part structure (plus pivots). Next the claim recites that there is a plurality of internal pairs of flat measuring surfaces and that there is a separate plurality of pairs of external flat measuring surfaces. This clearly distinguishes over Labofish who has only one pair of steps. For these reasons, amended Claim 21 is not anticipated by Labofish.

The Examiner rejected Claims 21 and 22 under Section 103 as being obvious with respect to the teaching of Link. He would "connect the two embodiments shown by FIGURES 1 and 6 of Link into a single device to make an internal and external gauge in one

device." How would the Examiner do this? The first impression is to join the reference edge 45 in FIGURE 6 with the base edge 8 in FIGURE 1. This would make a one-piece device, but would ruin the function of both the FIGURE 1 and the FIGURE 6 devices, see the following FIGURE A.

U.S. Patent Apr. 29, 1986

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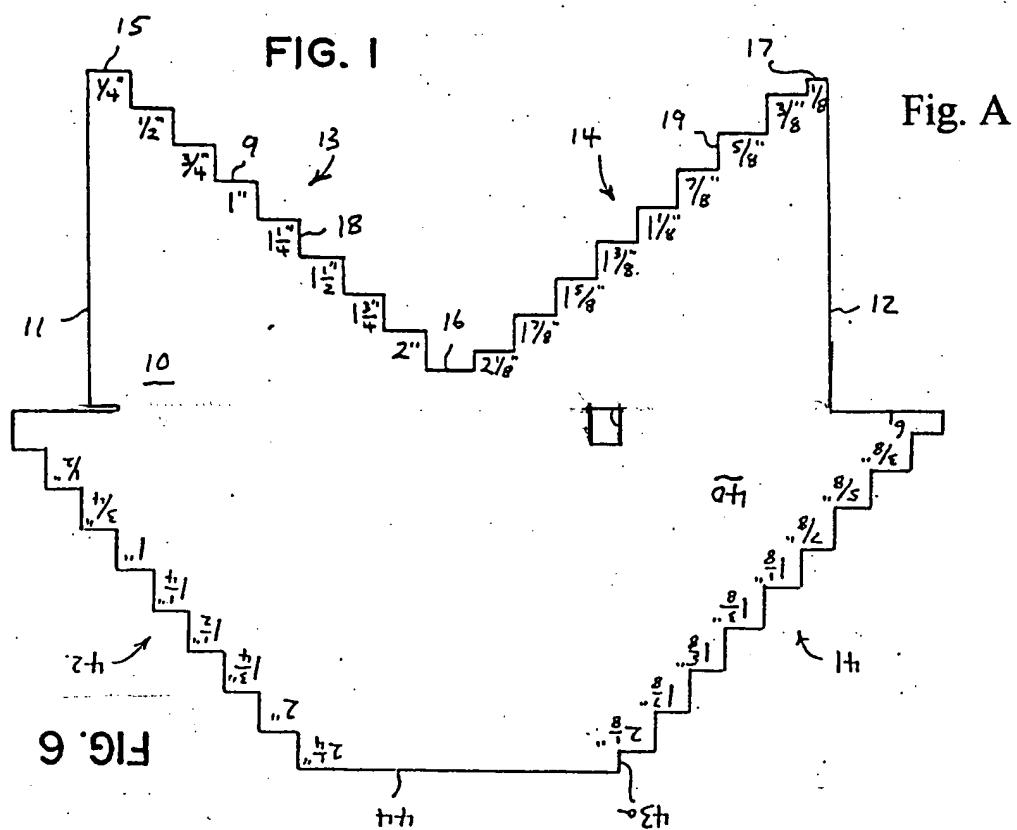


Fig. B

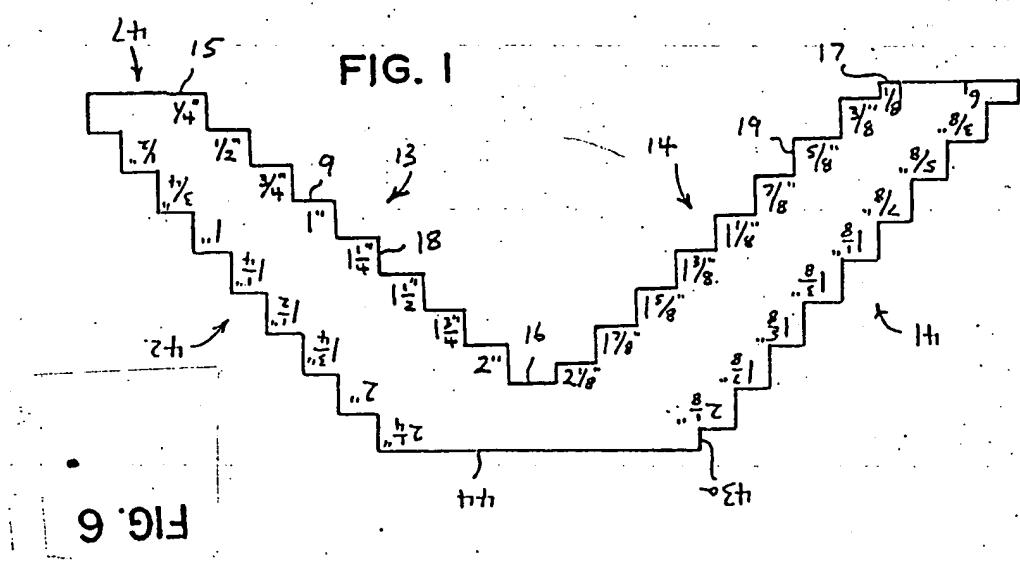


FIG. 6

It would save no material. Since the reference edge 45 is gone, then the measurement downward from the steps is lost. If the Examiner wanted to overlap them to save material, from the position where the reference edge 45 lies against the base edge 8, he could move the FIGURE 6 device upward, see the previous FIGURE B. This would save material and make the overall device smaller. It would even look a little bit like Applicant's FIGURE 1. However, this would take away the reference edges 11 and 12 so that the structure of FIGURE 1 would be inoperative. Remember that Link measures between his steps and the reference edges 11 and 12. Removing those reference edges would remove the utility of FIGURE 1.

The Examiner is correct that it is well-known to make an integral device from two separate devices. However, that presumes there is no difference in function. In the present case, combining and overlapping the structures removes Link's reference edges so that his function is gone. The concept of placing two known devices together without changing function of either one of them is probably not patentable under any circumstances. For example, placing an eraser on a lead pencil. However, joining the Link FIGURE 1 and FIGURE 6 structures immediately loses function and, if he overlaps to save material and size so that it looks something like the Applicant's FIGURE 1, he loses more function. Therefore, Applicant's structure is unobvious with respect to Link.

Claim 22 is dependent on Claim 21 and was rejected on the same grounds. It carries the same limitations as was discussed

above and, therefore, is also novel and unobvious with respect to the art for the reasons discussed above. In addition, it adds additional structure in placing indicia adjacent selected pairs of the measuring surfaces.

This application has been amended, and it has been shown how the amended claims are novel and unobvious with respect to the art. Reexamination and allowance is respectfully requested.

Respectfully submitted,

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